

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BETHANY DITZLER,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 1:21-CV-01852-
	:	CCC
PINNACLEHEALTH OBSTETRICS	:	
AND GYNECOLOGY SPECIALISTS,	:	The Honorable Christopher C. Conner
PINNACLEHEALTH MEDICAL	:	
SERVICES, UPMC PINNACLE	:	
HOSPITALS, UPMC PINNACLE,	:	
BEVERLY A. HALL NDLOVU and	:	
LEE BLECHER,	:	
Defendants.	:	
	:	

**DEFENDANTS’ JOINT MOTION FOR PARTIAL SUMMARY
JUDGMENT REGARDING ALLEGATIONS IN THE
COMPLAINT NOT SUPPORTED BY EXPERT TESTIMONY**

Defendants, PinnacleHealth Obstetrics and Gynecology Specialists, Pinnacle Health Medical Services, UPMC Pinnacle Harrisburg, UPMC Pinnacle, Beverly Ndlovu Hall, M.D., and Lee Blecher, M.D., by their attorneys, Burns White LLC, Barley Snyder, Marshall Dennehey Warner Coleman & Goggin, and Myers, Brier & Kelly, LLP, hereby submit the instant Motion for Partial Summary Judgment Regarding Allegations in the Complaint Not Supported by Expert Testimony and, in support thereof, aver as follows:

1. This action was commenced by a Complaint filed on August 10, 2021, which alleges a professional liability claim arising from medical treatment rendered to Plaintiff, Bethany Ditzler, at the time of her delivery on August 17, 2001. (Document 1).

2. On August 17, 2001, the facility where Plaintiff was born was operating under the name “Harrisburg Hospital” and was owned by Pinnacle Health. (Exhibit A, Medical Records of Cami Furjanic and Baby Girl Furjanic, subsequently named Bethany Ditzler).

3. The Complaint alleges that the Defendants were negligent in failing to properly deliver Plaintiff, as a result of which she suffered a brachial plexus nerve injury to her right shoulder and arm. (Document 1).

4. The alleged negligence of the Defendants is set forth in Count I: Negligence, Paragraphs 38(a) through 38(x). (Document 1).

5. The injuries and damages allegedly sustained by Plaintiff as a result of the alleged negligence are set forth in Paragraphs 39, 40, and 47. (Document 1).

6. Discovery is now complete and Plaintiff has served expert reports.

7. Plaintiff has served two expert reports prepared by Lawrence Borow, M.D. dated December 29, 2023 (Exhibit B) and March 3, 2024 (Exhibit C) along with his Curriculum Vitae (Exhibit D).

8. Plaintiff has served two expert reports prepared by Joshua Abzug, M.D. dated January 2, 2024 (Exhibit E) and March 5, 2024 (Exhibit F) along with his Curriculum Vitae (Exhibit G).

9. Plaintiff has served two expert reports prepared by Scott Kozin, M.D. dated December 17, 2023 (Exhibit H) and March 3, 2024 (Exhibit I) along with his Curriculum Vitae (Exhibit J).

10. Plaintiff has served one expert report prepared by Michael Ferder, BS, CFCE dated December 27, 2023 (Exhibit K) along with his Curriculum Vitae (Exhibit L).

11. Plaintiff has served one expert report prepared by Royal Bunin, MBA dated January 9, 2024 (Exhibit M) along with his Curriculum Vitae (Exhibit N).

12. Plaintiff has served one expert report prepared by Valerie Parisi, RN, CRRN, CLCP dated January 9, 2024 (Exhibit O) along with her Curriculum Vitae (Exhibit P).

13. For the reasons set forth specifically in Defendants' Memorandum of Law, certain allegations of negligence, contained in Paragraph 38 (f), (i), (n), (o), (q), (t), (u), (v), and (w) and injuries and damages contained in Paragraph 40 (b), (d), and (g) in the Complaint, are not supported by expert opinions.

14. Inasmuch as these allegations of negligence and injuries and damages are not supported by expert opinions, they should be dismissed.

15. According, Defendants respectfully seek relief in the form of a partial summary judgment dismissing said unsupported allegations.

WHEREFORE, Defendants respectfully request that this Honorable Court grant their Joint Motion for Partial Summary Judgment Regarding Unsupported Allegations in the Complaint and enter the attached proposed Order.

Respectfully submitted,

BURNS WHITE LLC

By:



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Attorneys for Defendant,
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Dated: March 20, 2024

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LEE BLECHER,	:	
Defendants.	:	
	:	

CERTIFICATE OF SERVICE

I, Marcy B. Tanker, attorney for Defendant, UPMC Pinnacle Harrisburg, hereby certify that a true and correct copy of the foregoing *Joint Motion of Defendants for Partial Summary Judgment Regarding Allegations in the Complaint Not Supported by Expert Testimony* was filed electronically via the Court's ECF system on the date below and is available for viewing and download by all counsel of record.


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Dated: March 20, 2024